

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

CHARLES JACKSON,)	2:08cv1054
)	Electronic Filing
Plaintiff,)	
)	Judge David S. Cercone /
v.)	Magistrate Judge Lisa Pupo Lenihan
)	
SAMUAL J. NASSAN, SP # 525627; THE)	
PENNSYLVANIA STATE POLICE; and THE)	
STATE OF PENNSYLVANIA,)	
)	
Defendants.)	

MEMORANDUM ORDER

Plaintiff's complaint and in forma pauperis motion in this case was received by the Clerk of Court on July 29, 2008. Judge Cercone was named the presiding judge on November 10, 2008, and the case was referred to United States Magistrate Judge Lisa Pupo Lenihan for pretrial proceedings in accordance with the Magistrates Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrates.

The Magistrate Judge's Report and Recommendation (Doc. No. 38), filed on July 10, 2009, recommended that Defendant's Motion to Dismiss (Doc. No. 32) be granted with regard to Plaintiff's excessive force claim under Section 1983 and malicious prosecution claim under state common law, and denied as to Plaintiff's malicious prosecution claim under Section 1983. Service was made electronically on counsel of record. The parties were informed that in accordance with Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) and (C), and Rule 72.1.4(B) of the Local Rules for Magistrates, that they had ten (10) days to file any objections. No objections

have been filed. After review of the pleadings and the documents in the case, together with the report and recommendation and the objections thereto, the following order is entered:

AND NOW, this 24th day of August, 2009;

IT IS HEREBY ORDERED that Defendant's Motion to Dismiss (Doc. No. 32) is **GRANTED** with regard to Plaintiff's excessive force claim under Section 1983.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (Doc. No. 32) is **GRANTED** with regard to Plaintiff's malicious prosecution claim under state common law.

IT IS FURTHER ORDERED that Defendant's Motion to Dismiss (Doc. No. 32) is **DENIED** as to Plaintiff's malicious prosecution claim under Section 1983.

IT IS FURTHER ORDERED that the Report and Recommendation (Doc. No. 38) of Magistrate Judge Lenihan, dated July 10, 2009, is adopted as the opinion of the court.



David Stewart Cercone
United States District Judge

cc: Honorable Lisa Pupo Lenihan
United States Magistrate Judge

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